

VZCZCXYZ0004
OO RUEHWEB

DE RUEHC #5020 2010501
ZNR UUUUU ZZH
O 172350Z JUL 09
FM SECSTATE WASHDC
TO RUCNDT/USMISSION USUN NEW YORK IMMEDIATE 6904-6905
INFO RUEHGB/AMEMBASSY BAGHDAD IMMEDIATE 7299-7300
RUEHKU/AMEMBASSY KUWAIT IMMEDIATE 6502-6503
RUEHLO/AMEMBASSY LONDON IMMEDIATE 5415-5416
RUEHFR/AMEMBASSY PARIS IMMEDIATE 5350-5351

UNCLAS STATE 075020

SENSITIVE

C O R R E C T E D C O P Y (ADDED SENSITIVE CAPTION)

SIPDIS
USUN FOR GERMAIN AND KUJAWINSKI

E.O. 12958: N/A
TAGS: [PREL](#) [UNSC](#) [IZ](#)
SUBJECT: GUIDANCE: PASS P3 TEXT TO DE MISTURA

REF: 09STATE72667

11. (U) This is an action request(paras 2 and 3).

12. (SBU) USUN is instructed to share the following draft UN Security Council resolution (UNSCR) text (para 3) and list of possible technical and other implementation arrangements (of possible relevance for inclusion in a accompanying Iraqi side letter -- para 4) with former UNAMI SRSG Staffan de Mistura (reflecting the idea he shared with the three governments). USUN should keep Washington informed on the progress of de Mistura's discussions and seek further guidance as needed.

13. (SBU) Begin First Non-paper:

Preambular Paragraphs:

--Welcoming the Secretary-General's report as requested in paragraph 5 of Resolution 1859(2008) on facts relevant to consideration by the Council of actions necessary for Iraq to achieve international standing equal to that which it held prior to the adoption of resolutions pertaining specifically to Iraq, beginning with the adoption of resolution 661 (1990);

--Reaffirming the commitment of all Member States to the sovereignty, territorial integrity and political independence of Kuwait and Iraq;

--Welcoming in particular the annexed letter from Iraqi Prime Minister Nuri al-Maliki, in which the government of Iraq reaffirms its commitment to resolution 833 (1993) and promises to complete the technical and other implementation arrangements necessary with regard to the border between Iraq and Kuwait; welcoming also the annexed letter from (Kuwaiti Senior Official), in which the government of Kuwait affirms its willingness to engage in good faith discussions with the government of Iraq under the auspices of the United Nations Compensation Commission on a final settlement of United Nations Compensation Commission awards, cognizant of the decisions set out below;

--Recognizing and reaffirming the conclusion of the United Nations Iraq-Kuwait Boundary Demarcation Commission with respect to the right of navigation and access for both Iraq and Kuwait through the Khowr Zhobeir, the Khowr Shetana and the Khowr Abd Allah to and from all their own respective waters and territories bordering their boundary and that this right of access implies a non-suspendible right of navigation for both States;

Operative Paragraphs:

--Underlines and reaffirms resolution 833 (1993) in its

entirety;

--Requests the Secretary-General to facilitate the establishment of a Panel for Review and Mediation of Maritime Issues, in consultation with Iraq and Kuwait, with a mandate to review and, as appropriate, mediate outstanding issues arising from the maritime boundary, building upon the work done by the United Nations Iraq-Kuwait Boundary Demarcation Commission and affirmed in resolution 833 (1993);

--Requests further that the Secretary General appoint a representative to lead the Panel;

--Requests further that the Secretary General report to the Council regularly on progress made and, at any time that the Secretary General determines is appropriate, transmit recommendations to the Council to further the resolution of issues before the Panel;

-- Welcomes the annexed letter from Iraqi Prime Minister Nuri al-Maliki, in which the government of Iraq reaffirms its commitment to resolution 833 (1993) and promises to complete the technical and other implementation arrangements necessary with regard to the border between Iraq and Kuwait, and urges timely implementation of these arrangements,

--Reaffirms the obligation placed upon the Government of Iraq to deposit the determined percentage of the proceeds of all export sales of petroleum, petroleum products and natural gas from Iraq into the Compensation Fund, and the authorities of the Governing Council of the United Nations Compensation Commission as set forth in paragraph 21 of resolution 1483 (2003);

--Decides to decrease the percentage of proceeds referred to in paragraph 21 of resolution 1483(2003) from 5 percent to 2.5 percent, effective immediately;

--Calls upon the Government of Iraq and the Government of Kuwait to engage immediately in good faith settlement negotiations under the auspices of the United Nations Compensation Commission with regard to settlement of the United Nations Compensation Commission awards that will remain outstanding upon full payment of the environmental remediation awards issued by the United Nations Compensation Commission;

--Calls upon the Government of Iraq to establish an accounting and payment procedure and mechanism to ensure the continuation of deposits of the proceeds referred to in paragraph 21 of resolution 1483 (2003) to the Compensation Fund, to be audited by independent public accountants reporting to the International Advisory and Monitoring Board, or successor arrangements for the International Advisory and Monitoring Board, including the Committee of Financial Experts;

--Underscores the commitment of the Security Council to review resolutions pertaining specifically to Iraq, beginning with the adoption of resolution 661 (1990), and to consider what actions, in light of the facts noted in the Secretary-General's report requested by UNSCR 1859 (2008), are necessary for Iraq to achieve international standing equal to that which it held prior to the adoption of such resolutions, and notes the Security Council's intention to review progress as appropriate.

End First Non-paper.

14. (SBU) Begin Second Non-paper:

-- List of possible technical and other implementation arrangements related to the border between Iraq and Kuwait:

-- removal of any obstacles or buildings along the boundary,
-- maintenance of the boundary pillars,
-- resettlement of the Iraqi farmers living adjacent to the border on the Kuwaiti side, and

-- construction of a road parallel to the boundary pillars.

End Second Non-paper.

CLINTON